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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8823 of 2007

M/s. Polyster Moulding Co.Pvt.Ltd. ..Petitioners

V/s.

Mrs. Surekha Sandeep Shevkaree & Anr. ..Respondents

Ms. Sonali Shinde i/by M/s. Consulta Javis for the Petitioner

CORAM : B.H.MARLAPALLE,J.
DATED : 17th December, 2007

P.C.

Heard the Learned Counsel for the Petitioner Company. Though the petition is stated to have been filed under Article 226 & 227 of the Constitution, having regard to the reliefs sought for, the petition is being treated as the one filed under Article 227 only.

2. The Respondent workman raised a demand of reinstatement challenging the termination of service w.e.f. 9-2-1996 and the said demand was referred for adjudication to the Labour Court at Pune in Reference (IDA) No. 247/97. The present Respondent had claimed that she was employed by the company since 30-9-1994 as

a chemist and her last drawn wages were Rs. 2,000/-. The Company had also employed her husband in the post of clerk. Both of them were terminated under oral orders on 9-2-1996 without any notice and only on the ground that she has conceived.

3. The Labour Court issued notice to the present petitioner company and inspite of its service, the petitioner chose not to appear before the Labour Court. Consequently, the reference was allowed exparte and on the basis of the affidavit filed by the employee, the reference has been allowed by the Award dated 17-5-2001 which directed reinstatement of the employee on her original post with continuity in service and full backwages from the date of termination till she is reinstated. The said Award was published by the Commissioner of Labour at Pune and the Labour Court issued notices to both the parties on 28-3-2000 regarding publication of award. The employee submitted representations to the petitioner company for her reinstatement in service pursuant to the Award passed by the Labour Court. There was no response and she waited for almost five years. Finally, she approached the Industrial Court and filed Comp(ULP) No. 236/2006. In the said complaint the Respondent employee prayed for the recovery of Rs.3,73,518/- towards backwages and

prayed for urgent orders for her reinstatement. The Industrial Court had issued notice to the present petitioner on or about 16-3-2007 and that is how petitioner company has approached this Court praying for quashing the Award dated 17-5-2001 as well as the notices issued by the Industrial Court.

4. On publication of the Award, the petitioner employer had the remedy of submitting an application before the Labour Court within 30 days to set aside the exparte Award but the company has not done so. The employee was forced to approach the Industrial Court with a fresh complaint seeking directions to implement the Award passed by the Labour Court almost after 5 years and as a matter of fact even in this petition or even by way of reply in Comp(ULP)No. 236/2006, the petitioner has not brought out any prima-facie material to dislodge the claim of the employee as upheld by the Labour Court. As noted earlier she had joined on 30-9-1994 as a chemist and the oral termination was dated 9-2-1996.

5. I am, therefore, satisfied that there is no case made out to cause interference with the Award passed by the Labour Court on 17-5-2001 and the Petitioner will have to face Complaint(ULP)No. 236/2006 on its own

merits. The notices issued by the Labour Court in the said complaint cannot be interfered with. Hence, the Petition is rejected summarily.

[B.H.MARLAPALLE,J.]